

AUG 03 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

ROBERT LEE ROBINS, JR.,

Plaintiff - Appellant,

v.

SCHROEDER, C/O; et al.,

Defendants - Appellees.

No. 05-16169

D.C. No. CV-99-06364-AWI

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, District Judge, Presiding

Submitted July 24, 2006^{**}

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

California state prisoner Robert Lee Robins, Jr., appeals pro se from the judgment entered in favor of defendants following a jury trial in this 42 U.S.C.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1983 action alleging prison staff acted with deliberate indifference and violated Robins' equal protection rights by placing him in a cold cage with inadequate clothing for one hour, and later binding him and placing him on contraband watch for three days. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

Robins contends that the trial was tainted by evidentiary errors, jury tampering, witness intimidation, and bias, but he did not provide a transcript of the proceedings as required by Fed. R. App. P. 10(b)(2). Without a trial transcript and supporting affidavits, we are unable to review these contentions. *See Syncom Capital Corp. v. Wade*, 924 F.2d 167, 169 (9th Cir. 1991).

Robins also contends the district court improperly considered evidence defendants submitted with their untimely motion for summary judgment in denying Robins' motion for summary judgment. Contrary to this contention, the district court did not abuse its discretion in considering defendants' evidence, which complied with the requirements of Fed. R. Civ. P. 56(e). *See Block v. City of Los Angeles*, 253 F.3d 410, 416 (9th Cir. 2001) (evidentiary rulings on summary judgment reviewed for abuse of discretion); *Beyene v. Coleman Sec. Services, Inc.*, 854 F.2d 1179, 1181 (9th Cir. 1988) (only admissible evidence under Rule 56(e) may be considered in ruling on summary judgment).

We do not consider the remaining issues raised in Robins' opening brief that are not supported by specific, cogent argument. *See Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994).

Robins' remaining contentions lack merit.

We deny Robins' motion for appointment of counsel because he has not shown exceptional circumstances. *See Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991).

AFFIRMED.